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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 HUNG TRAN,

13 Plaintiff,

14 v.

15 REBECA VILLAFUENTES, *et al.*,

16 Defendants.  
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Case No. 15-cv-1450-BAS(BGS)

**ORDER REMANDING ACTION  
TO STATE COURT FOR LACK OF  
SUBJECT MATTER  
JURISDICTION**

20 On May 27, 2015, Plaintiff Hung Tran commenced this unlawful-detainer action  
21 in the San Diego Superior Court against Defendant Yolanda Astorga. Defendant  
22 Rebeca Villafuentes was shortly thereafter added to the lawsuit. This action arises  
23 from Defendants' alleged failure to pay rent as required by a written agreement. On  
24 July 1, 2015, Defendants removed this action to federal court. The removal is based  
25 on jurisdiction under 28 U.S.C. §§ 1331 and 1332.

26 For the following reasons, the Court finds that Defendants' Notice of Removal  
27 is deficient and **REMANDS** this action to the San Diego Superior Court.

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1 **I. LEGAL STANDARD**

2 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life*  
3 *Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). “They possess only that power authorized  
4 by Constitution or a statute, which is not to be expanded by judicial decree.” *Id.*  
5 (internal citations omitted). “It is to be presumed that a cause lies outside this limited  
6 jurisdiction and the burden of establishing the contrary rests upon the party asserting  
7 jurisdiction.” *Id.* (internal citations omitted); *see also Abrego Abrego v. The Dow*  
8 *Chem. Co.*, 443 F.3d 676, 684 (9th Cir. 2006).

9 Consistent with the limited jurisdiction of federal courts, the removal statute is  
10 strictly construed against removal jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566  
11 (9th Cir. 1992); *see also Sygenta Crop Prot. v. Henson*, 537 U.S. 28, 32 (2002);  
12 *O’Halloran v. Univ. of Wash.*, 856 F.2d 1375, 1380 (9th Cir. 1988). “The strong  
13 presumption against removal jurisdiction means that the defendant always has the  
14 burden of establishing that removal is proper.” *Gaus*, 980 F.2d at 566; *see also*  
15 *Nishimoto v. Federman-Bachrach & Assoc.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990);  
16 *O’Halloran*, 856 F.2d at 1380. “Federal jurisdiction must be rejected if there is any  
17 doubt as to the right of removal in the first instance.” *Gaus*, 980 F.2d at 566.

18 Although there has not been a request to remand, it is well-established that “a  
19 district court’s duty to establish subject matter jurisdiction is not contingent upon the  
20 parties’ arguments.” *See United Investors Life Ins. Co. v. Waddell & Reed Inc.*, 360  
21 F.3d 960, 966 (9th Cir. 2004). Courts may consider the issue *sua sponte*. *Demery v.*  
22 *Kupperman*, 735 F.2d 1139, 1149 n.8 (9th Cir. 1984). Indeed, the Supreme Court has  
23 emphasized that “district courts have an ‘independent obligation to address subject-  
24 matter jurisdiction *sua sponte*.”” *Grupo Dataflux v. Atlas Global Grp., L.P.*, 541 U.S.  
25 567, 593 (2004) (quoting *United States v. S. Cal. Edison Co.*, 300 F. Supp. 2d 964, 972  
26 (E.D. Cal. 2004)).

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## 1 II. ANALYSIS

### 2 A. Diversity

3 In attempting to invoke this Court’s diversity jurisdiction, the defendant must  
 4 prove that there is complete diversity of citizenship between the parties and that the  
 5 amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. To determine whether the  
 6 amount in controversy has been met on removal, “[t]he district court may consider  
 7 whether it is ‘facially apparent’ from the complaint that the jurisdictional amount is in  
 8 controversy.” *Singer v. State Farm Mutual Auto Ins. Co.*, 116 F.3d 373, 377 (9th Cir.  
 9 1997). In cases in which the plaintiff’s state-court complaint does not specify an exact  
 10 damage figure, the defendant “must provide evidence that it is ‘more likely than not’  
 11 that the amount in controversy” satisfies the federal diversity jurisdictional amount  
 12 requirement. *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996).  
 13 Defendant fails to satisfy that requirement. *See* 42 U.S.C. § 1332.

14 Defendants assert that “Plaintiff does not quantify the amount of damages they  
 15 [sic] seek to recover in this case[,]” and “[f]rom the face of the Complaint, however,  
 16 it is apparent that the amount in controversy more likely than not exceeds \$75,000.00,  
 17 exclusive of interest and costs.” (Removal Notice ¶ 7.) That is wholly inaccurate.

18 Plaintiff unequivocally indicates that the amount in controversy does not exceed  
 19 \$10,000. (Compl. 1 (under “Jurisdiction”).) That valuation is consistent with  
 20 allegations in the complaint asserting that the monthly rent is \$1,980, to be  
 21 “customarily paid on [the] 15th,” and Defendants failed to pay rent beginning May 21,  
 22 2015. (Compl. ¶¶ 6(d), 7(b).) Plaintiff’s request for relief is quite clear. He seeks,  
 23 among other non-monetary relief, costs, reasonable attorney fees, \$1,980 in past-due  
 24 rent, and \$66 for each day Defendants remain in possession of the property beginning  
 25 June 16, 2015 through entry of judgment. (Compl. ¶¶ 11, 17.)

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1 As of this date, the damages sought, excluding attorney fees and costs, amount  
2 to \$3,102.<sup>1</sup> That is well below the amount-in-controversy threshold required to  
3 establish federal diversity jurisdiction. *See* 42 U.S.C. § 1332.

#### 4 5 **B. Federal Question**

6 In order to invoke this Court’s federal-question jurisdiction, the defendant must  
7 demonstrate that the civil action “aris[es] under the Constitution, laws, or treaties of the  
8 United States.” 28 U.S.C. § 1331. “It is settled that the answer to this jurisdictional  
9 question must be determined solely from the face of the complaint unaided by the  
10 answer, petition for removal or other papers.” *Farmco Stores, Inc. v. Newmark*, 315  
11 F. Supp. 396, 397 (E.D. Cal. 1970) (citing *Gully v. F. Nat’l Bank*, 299 U.S. 109, 113  
12 (1936); *Stauffer v. Exley*, 184 F.2d 962, 967 (9th Cir. 1950)).

13 Though most of the removal notice focuses on the requirements for diversity  
14 jurisdiction, Defendants also invoke federal question under 28 U.S.C. § 1331. The only  
15 elaboration on federal question is the following paragraph: “This Court has original  
16 jurisdiction over the matter pursuant to 28 U.S.C. § 1331. Further, this matter is one  
17 that may be removed to this Court . . . because it is a civil action based on the Federal  
18 Debt Collection Practices Act.” (Removal Notice ¶ 4.) That understanding of the  
19 complaint is also incorrect. The federal Fair Debt Collection Practices Act, 15 U.S.C.  
20 § 1692, is not invoked anywhere in the complaint. In fact, there is no identifiable  
21 federal statute or claim mentioned, even in passing, anywhere in the complaint.

22 Therefore, the Court cannot conclude that this action arises under the  
23 Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 1331.

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28 <sup>1</sup> Seventeen days have lapsed from June 16, 2015 to this date. The damages resulting from  
daily rate is calculated as follows: \$66 per day x 17 days = \$1,122. Adding that value to the past-due  
rent sought, \$1,980, produces the sum total of \$3,102.

1 **III. CONCLUSION & ORDER**

2 Because Plaintiff does not assert a claim that presents a federal question as  
3 required by 28 U.S.C. § 1331, and because he fails to allege facts necessary to establish  
4 diversity jurisdiction as required by 28 U.S.C. § 1332, the Court **REMANDS** this  
5 action to the San Diego Superior Court for lack of subject matter jurisdiction. *See* 28  
6 U.S.C. § 1447(c) (“If at any time before final judgment it appears that the district court  
7 lacks subject matter jurisdiction, the case shall be remanded.”). Additionally, the Court  
8 **TERMINATES AS MOOT** Defendants’ motion to proceed *in forma pauperis*. (ECF  
9 No. 3.)

10 **IT IS SO ORDERED.**

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12 **DATED: July 2, 2015**

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14 **Hon. Cynthia Bashant**  
15 **United States District Judge**  
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